

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Hicham El Majni

v.

Civil No. 15-cv-054-JL

Bruce Pelkie, Superintendent,  
Strafford County Department of Corrections

O R D E R

Before the court for preliminary review is pro se petitioner Hicham El Majni's petition for writ of habeas corpus (doc. no. 1) filed pursuant to 28 U.S.C. § 2241. El Majni is being detained by United States Immigration and Customs Enforcement ("ICE") at the Strafford County Department of Corrections ("SCDC") in Dover, New Hampshire. The matter is before the court to determine whether the petition is facially valid and may proceed. See Rule 4 of the Rules Governing Section 2254 Cases ("§ 2254 Rules"); see also § 2254 Rule 1(b) (authorizing court to apply § 2254 Rules to § 2241 petitions).

El Majni seeks immediate release on the ground that his continued detention violates his due process rights as articulated by the Supreme Court in Zadvydas v. Davis, 533 U.S. 678 (2001). In Zadvydas, the Supreme Court held that after a reasonable post-removal decision period of six months, if an

alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing. See 533 U.S. at 701. El Majni asserts that he remains in ICE detention, although a final deportation order issued on July 30, 2014.

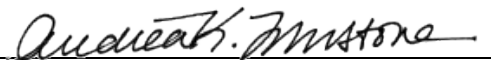
The matters asserted in the petition warrant service of the § 2241 petition upon El Majni's current custodian, SCDC Superintendent Pelkie, with notice provided to the United States. Accordingly, the clerk's office is directed to prepare, issue, and forward to the U.S. Marshals Service: a summons for Pelkie; the petition (doc. no. 1); and this Order. The U.S. Marshals Service shall serve those documents upon Pelkie pursuant to Fed. R. Civ. P. 4(c)(3) and 4(e). The U.S. Marshals Service is further directed to deliver a copy of the same documents to the United States Attorney for the District of New Hampshire, and to send copies by certified mail to the Attorney General for the United States, and to the Enforcement and Removal Operations Division, U.S. Department of Homeland Security, 500 12th Street, SW, Washington, DC 20536.

Respondent Pelkie shall answer or otherwise respond within twenty-one (21) days of service. The answer shall comply with

the requirements of § 2254 Rule 5, as appropriate for El Majni's petition.

Respondent shall provide this court with at least 48 hours advance notice of any scheduled removal of El Majni, and any scheduled transfer of El Majni out of the jurisdiction.

SO ORDERED.

  
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Andrea K. Johnstone  
United States Magistrate Judge

March 17, 2015

cc: Hicham El Majni, pro se